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BBG Global, AG

11 UNITED STATES DISTRICT COURT  
12 SOUTHERN DISTRICT OF CALIFORNIA

14 NICOLAS WOOD, individually and on  
behalf all others similarly situated,

15 Plaintiffs,

16 v.

17 BBG COMMUNICATIONS, INC., BBG  
18 GLOBAL, AG, and BBG HOLDINGS,  
LTD.,

19 Defendants.

20 Defendants.

Case No. 3:11-cv-00227-AJB -NLS

**DEFENDANT BBG GLOBAL AG'S  
ANSWER TO FIRST AMENDED  
COMPLAINT**

Complaint filed: February 2, 2011  
Trial Date: None Set

1 For its ANSWER to the FIRST AMENDED COMPLAINT ("FAC") by  
2 plaintiff Nicolas Wood ("Plaintiff"), defendant BBG Global AG ("BBG Global"), for  
3 itself alone, admits, denies, and avers as follows:

4  
5 **INTRODUCTION**

6 1. Paragraph 1 of the FAC contains mere legal argument and  
7 conclusions to which no response is required. To the extent that a response is required,  
8 BBG Global denies the allegations in paragraph 1 of the FAC.

9  
10 2. BBG Global denies the allegations in paragraph 2 of Plaintiff's FAC.

11  
12 3. Paragraph 3 of the FAC contains mere legal argument and  
13 conclusions to which no response is required. To the extent that a response is required,  
14 BBG Global denies the allegations in paragraph 3 of the FAC.

15  
16 4. Paragraph 4 of the FAC contains mere legal argument and  
17 conclusions to which no response is required. To the extent that a response is required,  
18 BBG Global denies the allegations in paragraph 4 of the FAC.

19  
20 **THE PARTIES**

21 5. BBG Global lacks knowledge or information sufficient to form a  
22 belief as to the truth of the allegations in paragraph 5 of the FAC, and, accordingly, denies  
23 such allegations.

24  
25 6. BBG Global lacks knowledge or information sufficient to form a  
26 belief as to the truth of the allegations in paragraph 6 of the FAC, and, accordingly, denies  
27 such allegations.

1           7.     BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 7 of the FAC, and, accordingly, denies  
3 such allegations.

4  
5           8.     BBG Global lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations in paragraph 8 of the FAC, and, accordingly, denies  
7 such allegations.

8  
9           9.     BBG Global lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in paragraph 9 of the FAC, and, accordingly, denies  
11 such allegations.

12  
13           10.    Paragraph 10 of the FAC contains mere legal argument and  
14 conclusions to which no response is required. To the extent that a response is required,  
15 BBG Global denies the allegations in paragraph 10 of the FAC.

16  
17           11.    BBG Global admits it is organized under the laws of Switzerland and  
18 that it is located at Bahnhof Park #4, 6340 Baar, Canton of Zug, Switzerland. BBG Global  
19 also admits that it was formed in or about June 2006.

20  
21           12.    Paragraph 12 of the FAC contains mere legal argument and  
22 conclusions to which no response is required. To the extent that a response is required,  
23 BBG Global denies the allegations in paragraph 12 of the FAC.

24  
25           13.    BBG Global admits that its offices in Switzerland are located on the  
26 lower level of a multi-use building. BBG Global further admits that its name is  
27 prominently displayed in the parking lot of the building and in the front entrance of the  
28

1 building on the glass window. BBG Global denies the remainder of the allegations this  
2 Paragraph 13 of the FAC.

3  
4 14. BBG Global denies the allegations in Paragraph 14 of the FAC.

5  
6 15. BBG Global denies the allegations in Paragraph 15 of the FAC.

7  
8 16. Paragraph 16 of the FAC contains mere legal argument and  
9 conclusions to which no response is required. To the extent that a response is required,  
10 BBG Global denies the allegations in paragraph 16 of the FAC.

11  
12 17. BBG Global admits that its website directs inquiries to  
13 info@bbgcomm.com. BBG Global contracts with a third party to handle all customer  
14 service inquiries, including those sent to this email address. BBG Global admits that it  
15 issues email addresses with the domain extension "@bbgcomm.com." BBG Global denies  
16 that all of its employees use this domain extension. BBG Global denies the remaining  
17 allegations in paragraph 17 of the FAC.

18  
19 18. BBG Global admits that its privacy policy on its website state that it  
20 stores information on servers located in California and Nevada, but denies that this is an  
21 admission that BBG Global has sites in either state. BBG Global denies the remaining  
22 allegations in paragraph 18 of the FAC.

23  
24 19. Paragraph 19 of the FAC contains mere legal argument and  
25 conclusions to which no response is required. To the extent that a response is required,  
26 BBG Global denies the allegations in paragraph 19 of the FAC.

1           20.     BBG Global admits that it outsourced certain administrative duties to  
2 third parties. The remaining allegations in paragraph 20 of the FAC contains mere legal  
3 argument and conclusions to which no response is required. To the extent that a response  
4 is required, BBG Global denies the allegations in paragraph 20 of the FAC.  
5

6           21.     BBG Global admits that Gregorio Galicot is the Chairman of the  
7 Board of Directors of BBG Global. BBG Global further admits that Gregorio Galicot  
8 resides in San Diego, California. BBG Global denies the remaining allegations in  
9 paragraph 21 of the FAC.  
10

11           22.     BBG Global admits that Rafael Galicot is an authorized signatory of  
12 BBG Global. BBG Global further admits that Rafael Galicot resides in San Diego,  
13 California. BBG Global denies the remaining allegations in paragraph 22 of the FAC.  
14

15           23.     BBG Global denies the allegations in paragraph 23 of the FAC.  
16

17           24.     BBG Global denies the allegations in paragraph 24 of the FAC.  
18

19           25.     Paragraph 25 of the FAC contains mere legal argument and  
20 conclusions to which no response is required. To the extent that a response is required,  
21 BBG Global denies the allegations in paragraph 25 of the FAC.  
22

23           26.     BBG Global admits it is the successor of BBG Holdings Limited, a  
24 Bermuda corporation. BBG Global denies the remaining allegations in paragraph 26 of the  
25 FAC.  
26  
27  
28

1           27.     BBG Global admits that this outdated pleading speaks for itself.  
2 Other than admitted, BBG Global denies the remaining allegations contained in paragraph  
3 27 of the FAC.

4  
5           28.     BBG Global admits it contracts with agents to negotiate service  
6 agreements with carriers throughout the world, except for North America. BBG Global  
7 admits that Mssrs. Goran and Michel Alexiev traveled to San Diego in or about 2003 to  
8 negotiate an agreement with BBG Holdings, Ltd. BBG Global further admits that the  
9 BBG Holdings, Ltd. agreement included a choice-of-law provision selecting California law  
10 as the governing law and selected San Diego as the forum for any disputes arising out of  
11 same. BBG Global denies the remaining allegations in paragraph 28 of the FAC.

12  
13           29.     Paragraph 29 of the FAC contains mere legal argument and  
14 conclusions to which no response is required. To the extent that a response is required,  
15 BBG Global denies the allegations in paragraph 29 of the FAC.

16  
17           30.     Paragraph 30 of the FAC contains mere legal argument and  
18 conclusions to which no response is required. To the extent that a response is required,  
19 BBG Global denies the allegations in paragraph 30 of the FAC.

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21           31.     BBG Global denies the allegations contained in paragraph 31 of the  
22 FAC.

23  
24           32.     BBG Global lacks knowledge or information sufficient to form a  
25 belief as to the truth of the allegations in paragraph 32 of the FAC, and, accordingly,  
26 denies such allegations.

1           33.     BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 33 of the FAC, and, accordingly,  
3 denies such allegations.

4  
5           34.     BBG Global lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations in paragraph 34 of the FAC, and, accordingly,  
7 denies such allegations.

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9           35.     BBG Global lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in paragraph 35 of the FAC, and, accordingly,  
11 denies such allegations.

12  
13           36.     Paragraph 36 of the FAC contains mere legal argument and  
14 conclusions to which no response is required. To the extent that a response is required,  
15 BBG Global denies the allegations in paragraph 36 of the FAC.

16  
17           37.     Paragraph 37 of the FAC contains mere legal argument and  
18 conclusions to which no response is required. To the extent that a response is required,  
19 BBG Global denies the allegations in paragraph 37 of the FAC.

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21           38.     BBG Global lacks knowledge or information sufficient to form a  
22 belief as to the truth of the allegations in paragraph 38 of the FAC, and, accordingly,  
23 denies such allegations.

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25           39.     BBG Global lacks knowledge or information sufficient to form a  
26 belief as to the truth of the allegations in paragraph 39 of the FAC, and, accordingly,  
27 denies such allegations.

1           40.     BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 40 of the FAC, and, accordingly,  
3 denies such allegations.

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5           41.     BBG Global lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations in paragraph 41 of the FAC, and, accordingly,  
7 denies such allegations.

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9           42.     BBG Global lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in paragraph 42 of the FAC, and, accordingly,  
11 denies such allegations.

12  
13           43.     BBG Global lacks knowledge or information sufficient to form a  
14 belief as to the truth of the allegations in paragraph 43 of the FAC, and, accordingly,  
15 denies such allegations.

16  
17           44.     BBG Global lacks knowledge or information sufficient to form a  
18 belief as to the truth of the allegations in paragraph 44 of the FAC, and, accordingly,  
19 denies such allegations.

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21           45.     BBG Global lacks knowledge or information sufficient to form a  
22 belief as to the truth of the allegations in paragraph 45 of the FAC, and, accordingly,  
23 denies such allegations.

24  
25           46.     BBG Global lacks knowledge or information sufficient to form a  
26 belief as to the truth of the allegations in paragraph 46 of the FAC, and, accordingly,  
27 denies such allegations.



1           47.     BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 47 of the FAC, and, accordingly,  
3 denies such allegations.

4  
5           48.     BBG Global lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations in paragraph 48 of the FAC, and, accordingly,  
7 denies such allegations.

8  
9           49.     BBG Global lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in paragraph 49 of the FAC, and, accordingly,  
11 denies such allegations.

12  
13           50.     BBG Global lacks knowledge or information sufficient to form a  
14 belief as to the truth of the allegations in paragraph 50 of the FAC, and, accordingly,  
15 denies such allegations.

16  
17           51.     BBG Global lacks knowledge or information sufficient to form a  
18 belief as to the truth of the allegations in paragraph 51 of the FAC, and, accordingly,  
19 denies such allegations.

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21           52.     BBG Global lacks knowledge or information sufficient to form a  
22 belief as to the truth of the allegations in paragraph 52 of the FAC, and, accordingly,  
23 denies such allegations.

24  
25           53.     BBG Global lacks knowledge or information sufficient to form a  
26 belief as to the truth of the allegations in paragraph 53 of the FAC, and, accordingly,  
27 denies such allegations.

28

1           54.    BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 54 of the FAC, and, accordingly,  
3 denies such allegations.

4  
5           55.    BBG Global lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations in paragraph 55 of the FAC, and, accordingly,  
7 denies such allegations.

8  
9           56.    BBG Global lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in paragraph 56 of the FAC, and, accordingly,  
11 denies such allegations.

12  
13          57.    BBG Global lacks knowledge or information sufficient to form a  
14 belief as to the truth of the allegations in paragraph 57 of the FAC, and, accordingly,  
15 denies such allegations.

16  
17          58.    BBG Global lacks knowledge or information sufficient to form a  
18 belief as to the truth of the allegations in paragraph 58 of the FAC, and, accordingly,  
19 denies such allegations.

20  
21          59.    BBG Global lacks knowledge or information sufficient to form a  
22 belief as to the truth of the allegations in paragraph 59 of the FAC, and, accordingly,  
23 denies such allegations.

24  
25          60.    BBG Global lacks knowledge or information sufficient to form a  
26 belief as to the truth of the allegations in paragraph 60 of the FAC, and, accordingly,  
27 denies such allegations.

1           61.     BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 61 of the FAC, and, accordingly,  
3 denies such allegations.

4  
5           62.     BBG Global lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations in paragraph 62 of the FAC, and, accordingly,  
7 denies such allegations.

8  
9           63.     BBG Global lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in paragraph 63 of the FAC, and, accordingly,  
11 denies such allegations.

12  
13           64.     BBG Global lacks knowledge or information sufficient to form a  
14 belief as to the truth of the allegations in paragraph 64 of the FAC, and, accordingly,  
15 denies such allegations.

16  
17           65.     BBG Global lacks knowledge or information sufficient to form a  
18 belief as to the truth of the allegations in paragraph 65 of the FAC, and, accordingly,  
19 denies such allegations.

20  
21           66.     BBG Global lacks knowledge or information sufficient to form a  
22 belief as to the truth of the allegations in paragraph 66 of the FAC, and, accordingly,  
23 denies such allegations.

24  
25           67.     BBG Global lacks knowledge or information sufficient to form a  
26 belief as to the truth of the allegations in paragraph 67 of the FAC, and, accordingly,  
27 denies such allegations.

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1           68.     BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 68 of the FAC, and, accordingly,  
3 denies such allegations.

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5           69.     BBG Global lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations in paragraph 69 of the FAC, and, accordingly,  
7 denies such allegations.

8  
9           70.     BBG Global lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in paragraph 70 of the FAC, and, accordingly,  
11 denies such allegations.

12  
13           71.     BBG Global lacks knowledge or information sufficient to form a  
14 belief as to the truth of the allegations in paragraph 71 of the FAC, and, accordingly,  
15 denies such allegations.

16  
17           72.     BBG Global lacks knowledge or information sufficient to form a  
18 belief as to the truth of the allegations in paragraph 72 of the FAC, and, accordingly,  
19 denies such allegations.

20  
21           73.     BBG Global lacks knowledge or information sufficient to form a  
22 belief as to the truth of the allegations in paragraph 73 of the FAC, and, accordingly,  
23 denies such allegations.

24  
25           74.     BBG Global lacks knowledge or information sufficient to form a  
26 belief as to the truth of the allegations in paragraph 74 of the FAC, and, accordingly,  
27 denies such allegations.

1           75.     BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 75 of the FAC, and, accordingly,  
3 denies such allegations.

4  
5           76.     BBG Global lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations in paragraph 76 of the FAC, and, accordingly,  
7 denies such allegations.

8  
9           77.     BBG Global lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in paragraph 77 of the FAC, and, accordingly,  
11 denies such allegations.

12  
13           78.     BBG Global lacks knowledge or information sufficient to form a  
14 belief as to the truth of the allegations in paragraph 78 of the FAC, and, accordingly,  
15 denies such allegations.

16  
17           79.     BBG Global lacks knowledge or information sufficient to form a  
18 belief as to the truth of the allegations in paragraph 79 of the FAC, and, accordingly,  
19 denies such allegations.

20  
21           80.     BBG Global lacks knowledge or information sufficient to form a  
22 belief as to the truth of the allegations in paragraph 80 of the FAC, and, accordingly,  
23 denies such allegations.

24  
25           81.     BBG Global lacks knowledge or information sufficient to form a  
26 belief as to the truth of the allegations in paragraph 81 of the FAC, and, accordingly,  
27 denies such allegations.

1           82.     BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 82 of the FAC, and, accordingly,  
3 denies such allegations.

4  
5           83.     BBG Global denies the allegations contained in paragraph 83 of the  
6 FAC.

7  
8                           **JURISDICTION AND VENUE**

9           84.     BBG Global denies that this Court has subject matter jurisdiction over  
10 the claims alleged by Plaintiff in his FAC, or that jurisdiction is proper in this Court. BBG  
11 Global denies the remaining allegations in Paragraph 84 of the FAC.

12  
13           85.     BBG Global denies the allegations in paragraph 85 of the FAC.

14  
15           86.     Paragraph 86 of the FAC contains mere legal argument and  
16 conclusions to which no response is required. To the extent that a response is required,  
17 BBG Global denies the allegations in paragraph 86 of the FAC.

18  
19           87.     BBG Global admits that some of its customers' credit cards are  
20 charged in United States dollars. Except as expressly admitted, BBG Global denies the  
21 remaining allegations contained in paragraph 87 of the FAC.

22  
23           88.     BBG Global admits that Gregorio Galicot is chairman of its Board of  
24 Directors, and that he resides in San Diego, California. BBG Global lacks knowledge or  
25 information sufficient to form a belief as to the truth of the remaining allegations in  
26 paragraph 88 of the FAC, and, accordingly, denies such allegations.

1           89.     BBG Global admits that Rafael Galicot is an authorized signatory for  
2 BBG Global, and that he resides in San Diego, California. BBG Global lacks knowledge or  
3 information sufficient to form a belief as to the truth of the remaining allegations in  
4 paragraph 89 of the FAC, and, accordingly, denies such allegations.

5  
6           90.     BBG Global admits that certain consumer information is maintained  
7 in servers located in either California or Nevada. BBG Global lacks knowledge or  
8 information sufficient to form a belief as to the truth of the remaining allegations in  
9 paragraph 90 of the FAC, and, accordingly, denies such allegations.

10  
11           91.     BBG Global denies the allegations contained in paragraph 91 of the  
12 FAC.

13  
14           92.     BBG Global denies the allegations contained in paragraph 92 of the  
15 FAC.

16  
17           93.     Paragraph 93 of the FAC contains mere legal argument and  
18 conclusions to which no response is required. To the extent that a response is required,  
19 BBG Global denies the allegations in paragraph 93 of the FAC.

20  
21           94.     BBG Global admits that Mssrs. Goral and Michel Alexiev entered  
22 into their agreement in San Diego. BBG Global denies the remaining allegations  
23 contained in paragraph 94 of the FAC.

24  
25           95.     Paragraph 95 of the FAC contains mere legal argument and  
26 conclusions to which no response is required. To the extent that a response is required,  
27 BBG Global denies the allegations in paragraph 95 of the FAC.

28

1 **FACTUAL BACKGROUND**

2 96. BBG Global lacks knowledge or information sufficient to form a  
3 belief as to the truth of the allegations in paragraph 96 of the FAC, and, accordingly,  
4 denies such allegations.

5  
6 97. BBG Global admits that it contracts with telephone system operators  
7 and that the parties share revenues generated by the services provided by BBG Global.  
8 BBG Global denies the remaining allegations in paragraph 97 of the FAC.

9  
10 98. Paragraph 98 of the FAC contains mere legal argument and  
11 conclusions to which no response is required. To the extent that a response is required,  
12 BBG Global denies the allegations in paragraph 98 of the FAC.

13  
14 99. BBG Global denies the allegations in paragraph 99 of the FAC.

15  
16 100. Paragraph 100 of the FAC contains mere legal argument and  
17 conclusions to which no response is required. To the extent that a response is required,  
18 BBG Global denies the allegations in paragraph 100 of the FAC.

19  
20 101. Paragraph 101 of the FAC contains mere legal argument and  
21 conclusions to which no response is required. To the extent that a response is required,  
22 BBG Global denies the allegations in paragraph 101 of the FAC.

23  
24 102. BBG Global lacks knowledge or information sufficient to form a  
25 belief as to the truth of the allegations in paragraph 102 of the FAC, and, accordingly,  
26 denies such allegations.



1           103. BBG Global admits that Hong Kong Broadband Network and BBG  
2 Global both provide long distance services at payphones at the Hong Kong airport. BBG  
3 Global further admits that Figure 2 is a photo of the disclosures dictated by Hong Kong  
4 Broadband Network at its payphones at the Hong Kong airport. BBG Global lacks  
5 knowledge or information sufficient to form a belief as to the truth of the remaining  
6 allegations in paragraph 103 of the FAC, and, accordingly, denies such allegations.

7  
8           104. BBG Global admits that Figure 3 in the FAC speaks for itself. Except  
9 as expressly admitted, BBG Global denies the remaining allegations in paragraph 104 of  
10 the FAC.

11  
12           105. BBG Global lacks knowledge or information sufficient to form a  
13 belief as to the truth of the allegations in paragraph 105 of the FAC, and, accordingly,  
14 denies such allegations.

15  
16           106. BBG Global admits that Plaintiff could have obtained rate information  
17 by dialing "0" at anytime before having his call connected. The remainder of paragraph  
18 106 of the FAC contains mere description of Plaintiff's claims and legal argument and  
19 conclusions to which no response is required. To the extent that a response is required,  
20 BBG Global denies the remaining allegations in paragraph 106 of the FAC.

21  
22           107. BBG Global lacks knowledge or information sufficient to form a  
23 belief as to the truth of the allegations in paragraph 107 of the FAC, and, accordingly,  
24 denies such allegations.

25  
26           108. BBG Global lacks knowledge or information sufficient to form a  
27 belief as to the truth of the allegations in paragraph 108 of the FAC, and, accordingly,  
28 denies such allegations.

1           109. BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 109, including its subparts, of the FAC,  
3 and, accordingly, denies such allegations.

4  
5           110. BBG Global lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations in paragraph 110, including its subparts, of the FAC,  
7 and, accordingly, denies such allegations.

8  
9           111. BBG Global lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in paragraph 111, including its subparts, of the FAC,  
11 and, accordingly, denies such allegations.

12  
13           112. This paragraph merely contains Plaintiff's description of his claims,  
14 and legal argument and conclusions to which no response is required. To the extent that a  
15 response is required, BBG Global denies the allegations of paragraph 112 of the FAC.

16  
17                           **MATERIAL OMISSIONS**

18           113. This paragraph merely contains Plaintiff's description of his claims,  
19 and legal argument and conclusions to which no response is required. To the extent that a  
20 response is required, BBG Global denies the allegations of paragraph 113 of the FAC.

21  
22           114. This paragraph merely contains Plaintiff's description of his claims,  
23 and legal argument and conclusions to which no response is required. To the extent that a  
24 response is required, BBG Global denies the allegations of paragraph 114 of the FAC.

25  
26           115.(1) This paragraph merely contains Plaintiff's descriptions of his claims,  
27 and legal argument and conclusions to which no response is required. To the extent that a  
28 response is required, BBG Global denies the allegations of paragraph 115 (1) of the FAC.

1           115.(2) This paragraph merely contains Plaintiff's descriptions of his claims,  
2 and legal argument and conclusions to which no response is required. To the extent that a  
3 response is required, BBG Global denies the allegations of paragraph 115 (2) of the FAC.  
4

5           115.(3) This paragraph merely contains Plaintiff's descriptions of his claims,  
6 and legal argument and conclusions to which no response is required. To the extent that a  
7 response is required, BBG Global denies the allegations of paragraph 115 (3) of the FAC.  
8

9           115.(4) This paragraph merely contains Plaintiff's descriptions of his claims,  
10 and legal argument and conclusions to which no response is required. To the extent that a  
11 response is required, BBG Global denies the allegations of paragraph 115 (4) of the FAC.  
12

13           116. This paragraph merely contains Plaintiff's description of his claims,  
14 and legal argument and conclusions to which no response is required. To the extent that a  
15 response is required, BBG Global denies the allegations of paragraph 116 of the FAC.  
16

17           117. This paragraph merely contains Plaintiff's description of his claims,  
18 and legal argument and conclusions to which no response is required. To the extent that a  
19 response is required, BBG Global denies the allegations of paragraph 117 of the FAC.  
20

21           118. This paragraph merely contains Plaintiff's description of his claims,  
22 and legal argument and conclusions to which no response is required. To the extent that a  
23 response is required, BBG Global denies the allegations of paragraph 118 of the FAC.  
24

25           119. This paragraph merely contains Plaintiff's description of his claims,  
26 and legal argument and conclusions to which no response is required. To the extent that a  
27 response is required, BBG Global denies the allegations of paragraph 119 of the FAC.  
28

1           120. BBG Global lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations in paragraph 120 of the FAC, and, accordingly,  
3 denies such allegations.

4  
5           121. This paragraph merely contains Plaintiff's description of his claims,  
6 and legal argument and conclusions to which no response is required. To the extent that a  
7 response is required, BBG Global denies the allegations of paragraph 121 of the FAC.

8  
9           **DEFENDANTS' KNOWLEDGE /RECKLESS DISREGARD OF THE FALSITY OF**  
10           **THEIR OMISSIONS**

11           122. BBG Global admits that it has received some complaints from  
12 consumers. Except as expressly admitted, BBG Global denies the allegations in paragraph  
13 122 of the FAC.

14           123. BBG Global lacks knowledge or information sufficient to form a  
15 belief as to the truth of the allegations in paragraph 123 of the FAC, and, accordingly,  
16 denies such allegations.

17  
18           124. This paragraph merely contains Plaintiff's description of his claims,  
19 and legal argument and conclusions to which no response is required. To the extent that a  
20 response is required, BBG Global denies the allegations of paragraph 124 of the FAC.

21  
22           125. This paragraph merely contains Plaintiff's description of his claims,  
23 and legal argument and conclusions to which no response is required. To the extent that a  
24 response is required, BBG Global denies the allegations of paragraph 125 of the FAC.  
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1 126. BBG Global admits that it has received some complaints from  
2 consumers. Except as expressly admitted, BBG Global denies the allegations in paragraph  
3 126 of the FAC.

4  
5 **TOLLING**

6 127. This paragraph merely contains Plaintiff's description of his claims,  
7 and legal argument and conclusions to which no response is required. To the extent that a  
8 response is required, BBG Global denies the allegations of paragraph 127 of the FAC.

9  
10 **CLASS ACTION ALLEGATIONS**

11 128. This paragraph merely contains Plaintiff's definition of their purported  
12 class and legal argument and conclusions to which no response is required. To the extent  
13 that a response is required, BBG Global denies the allegations of paragraph 128 of the  
14 FAC.

15  
16 129. This paragraph merely contains Plaintiff's definition of their purported  
17 class and legal argument and conclusions to which no response is required. To the extent  
18 that a response is required, BBG Global denies the allegations of paragraph 129 of the  
19 FAC.

20  
21 130. This paragraph merely contains Plaintiff's description of his claims,  
22 and legal argument and conclusions to which no response is required. To the extent that a  
23 response is required, BBG Global denies the allegations of paragraph 130 of the FAC.

24  
25 131. Numerosity. This paragraph merely contains Plaintiff's description of  
26 his claims, and legal argument and conclusions to which no response is required. To the  
27 extent that a response is required, BBG Global denies the allegations of paragraph 131 of  
28 the FAC.

1           132. Common Issues Exist And Predominate. This paragraph, including  
2 its subparts, merely contains Plaintiff's description of his claims, and legal argument and  
3 conclusions to which no response is required. To the extent that a response is required,  
4 BBG Global denies the allegations of paragraph 132, including its subparts, of the FAC.

5  
6           133. Typicality. This paragraph contains mere legal argument and  
7 conclusions to which no response is required. To the extent that a response is required,  
8 BBG Global denies the allegations of paragraph 133 of the FAC.

9  
10           134. The Class is Ascertainable. This paragraph contains mere legal  
11 argument and conclusions to which no response is required. To the extent that a response  
12 is required, BBG Global denies the allegations of paragraph 134 of the FAC.

13  
14           135. This paragraph merely contains Plaintiff's description of his claims,  
15 and legal argument and conclusions to which no response is required. To the extent that a  
16 response is required, BBG Global denies the allegations of paragraph 135 of the FAC.

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18           136. Superiority. This paragraph contains mere legal argument and  
19 conclusions to which no response is required. To the extent that a response is required,  
20 BBG Global denies the allegations of paragraph 136 of the FAC.

21  
22           137. This paragraph contains mere legal argument and conclusions to  
23 which no response is required. To the extent that a response is required, BBG Global  
24 denies the allegations of paragraph 137 of the FAC.

1 **FIRST CAUSE OF ACTION**

2 **(Violation of Business and Professions Code 17200, *et seq.*)**

3 138. BBG Global incorporates its responses to paragraphs 1-137 of the  
4 FAC.

5  
6 139. This paragraph contains mere legal argument and conclusions to  
7 which no response is required. To the extent that a response is required, BBG Global  
8 denies the allegations of paragraph 139 of the FAC.

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10 140. This paragraph contains mere legal argument and conclusions to  
11 which no response is required. To the extent that a response is required, BBG Global  
12 denies the allegations of paragraph 140 of the FAC.

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14 141. This paragraph contains mere legal argument and conclusions to  
15 which no response is required. To the extent that a response is required, BBG Global  
16 denies the allegations of paragraph 141 of the FAC.

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18 142. This paragraph contains mere legal argument and conclusions to  
19 which no response is required. To the extent that a response is required, BBG Global  
20 denies the allegations of paragraph 142 of the FAC.

21  
22 143. This paragraph contains mere legal argument and conclusions to  
23 which no response is required. To the extent that a response is required, BBG Global  
24 denies the allegations of paragraph 143 of the FAC.

25  
26 144. This paragraph contains mere legal argument and conclusions to  
27 which no response is required. To the extent that a response is required, BBG Global  
28 denies the allegations of paragraph 144 of the FAC.

1           145. This paragraph contains mere legal argument and conclusions to  
2 which no response is required. To the extent that a response is required, BBG Global  
3 denies the allegations of paragraph 145 of the FAC.

4  
5           146. This paragraph contains mere legal argument and conclusions to  
6 which no response is required. To the extent that a response is required, BBG Global  
7 denies the allegations of paragraph 146 of the FAC.

8  
9           147. This paragraph contains mere legal argument and conclusions to  
10 which no response is required. To the extent that a response is required, BBG Global  
11 denies the allegations of paragraph 147 of the FAC.

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13           148. This paragraph contains mere legal argument and conclusions to  
14 which no response is required. To the extent that a response is required, BBG Global  
15 denies the allegations of paragraph 148 of the FAC.

16  
17           149. This paragraph contains mere legal argument and conclusions to  
18 which no response is required. To the extent that a response is required, BBG Global  
19 denies the allegations of paragraph 149 of the FAC.

20  
21           150. This paragraph contains mere legal argument and conclusions to  
22 which no response is required. To the extent that a response is required, BBG Global  
23 denies the allegations of paragraph 150 of the FAC.

24  
25           151. This paragraph contains mere legal argument and conclusions to  
26 which no response is required. To the extent that a response is required, BBG Global  
27 denies the allegations of paragraph 151 of the FAC.

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1           152. This paragraph contains mere legal argument and conclusions to  
2 which no response is required. To the extent that a response is required, BBG Global  
3 denies the allegations of paragraph 152 of the FAC.

4  
5           153. This paragraph contains mere legal argument and conclusions to  
6 which no response is required. To the extent that a response is required, BBG Global  
7 denies the allegations of paragraph 153 of the FAC.

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9           154. This paragraph contains mere legal argument and conclusions to  
10 which no response is required. To the extent that a response is required, BBG Global  
11 denies the allegations of paragraph 154 of the FAC.

12  
13           155. This paragraph contains mere legal argument and conclusions to  
14 which no response is required. To the extent that a response is required, BBG Global  
15 denies the allegations of paragraph 155 of the FAC.

16  
17           156. This paragraph contains mere legal argument and conclusions to  
18 which no response is required. To the extent that a response is required, BBG Global  
19 denies the allegations of paragraph 156 of the FAC.

20  
21           157. This paragraph contains mere legal argument and conclusions to  
22 which no response is required. To the extent that a response is required, BBG Global  
23 denies the allegations of paragraph 157 of the FAC.

24  
25           158. This paragraph contains mere legal argument and conclusions to  
26 which no response is required. To the extent that a response is required, BBG Global  
27 denies the allegations of paragraph 158 of the FAC.

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1           166. This paragraph contains mere legal argument and conclusions to  
2 which no response is required. To the extent that a response is required, BBG Global  
3 denies the allegations of paragraph 166 of the FAC.

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5           167. This paragraph contains mere legal argument and conclusions to  
6 which no response is required. To the extent that a response is required, BBG Global  
7 denies the allegations of paragraph 167 of the FAC.

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9           168. This paragraph contains mere legal argument and conclusions to  
10 which no response is required. To the extent that a response is required, BBG Global  
11 denies the allegations of paragraph 168 of the FAC.

12  
13           169. This paragraph contains mere legal argument and conclusions to  
14 which no response is required. To the extent that a response is required, BBG Global  
15 denies the allegations of paragraph 169 of the FAC.

16  
17           170. This paragraph contains mere legal argument and conclusions to  
18 which no response is required. To the extent that a response is required, BBG Global  
19 denies the allegations of paragraph 170 of the FAC.

20  
21           171. This paragraph contains mere legal argument and conclusions to  
22 which no response is required. To the extent that a response is required, BBG Global  
23 denies the allegations of paragraph 171 of the FAC.

24  
25           172. This paragraph contains mere legal argument and conclusions to  
26 which no response is required. To the extent that a response is required, BBG Global  
27 denies the allegations of paragraph 172 of the FAC.

28

1           173. This paragraph contains mere legal argument and conclusions to  
2 which no response is required. To the extent that a response is required, BBG Global  
3 denies the allegations of paragraph 173 of the FAC.

4  
5           174. This paragraph contains mere legal argument and conclusions to  
6 which no response is required. To the extent that a response is required, BBG Global  
7 denies the allegations of paragraph 174 of the FAC.

8  
9           175. This paragraph contains mere legal argument and conclusions to  
10 which no response is required. To the extent that a response is required, BBG Global  
11 denies the allegations of paragraph 175 of the FAC.

12  
13           176. This paragraph contains mere legal argument and conclusions to  
14 which no response is required. To the extent that a response is required, BBG Global  
15 denies the allegations of paragraph 176 of the FAC.

16  
17                           **FOURTH [S/C] CAUSE OF ACTION**

18           **MONEY HAD AND RECEIVED, MONEY PAID, RESTITUTION/UNJUST**  
19                           **ENRICHMENT**

20           177. BBG Global incorporates its responses to paragraphs 1-176 of the  
21 FAC.

22  
23           178. BBG Global admits it provides certain telecommunications services in  
24 certain locations. BBG Global denies the remaining allegations of paragraph 178 of the  
25 FAC.

179. This paragraph contains mere legal argument and conclusions to which no response is required. To the extent that a response is required, BBG Global denies the allegations of paragraph 179 of the FAC.

180. This paragraph contains mere legal argument and conclusions to which no response is required. To the extent that a response is required, BBG Global denies the allegations of paragraph 180 of the FAC.

181. This paragraph contains mere legal argument and conclusions to which no response is required. To the extent that a response is required, BBG Global denies the allegations of paragraph 181 of the FAC.

182. This paragraph contains mere legal argument and conclusions to which no response is required. To the extent that a response is required, BBG Global denies the allegations of paragraph 182 of the FAC.

183. This paragraph contains mere legal argument and conclusions to which no response is required. To the extent that a response is required, BBG Global denies the allegations of paragraph 183 of the FAC.

### **PRAYER FOR RELIEF**

1. BBG Global denies that Plaintiffs are entitled to the relief sought in paragraph 1 of their Prayer For Relief.

2. BBG Global denies that Plaintiffs are entitled to the relief sought in paragraph 2 of their Prayer For Relief.

1                   3.       BBG Global denies that Plaintiffs are entitled to the relief sought in  
2 paragraph 3 of their Prayer For Relief.

3  
4                   4.       BBG Global denies that Plaintiffs are entitled to the relief sought in  
5 paragraph 4 of their Prayer For Relief.

6  
7                   5.       BBG Global denies that Plaintiffs are entitled to the relief sought in  
8 paragraph 5 of their Prayer For Relief.

9  
10                  6.       BBG Global denies that Plaintiffs are entitled to the relief sought in  
11 paragraph 6 of their Prayer For Relief.

12  
13                  7.       BBG Global denies that Plaintiffs are entitled to the relief sought in  
14 paragraph 7 of their Prayer For Relief.

15  
16                  8.       BBG Global denies that Plaintiffs are entitled to the relief sought in  
17 paragraph 8 of their Prayer For Relief.

18  
19                                   **AFFIRMATIVE DEFENSES**

20           As separate and distinct affirmative defenses to Plaintiff's allegations, BBG Global  
21 alleges as follows:

22                                   **FIRST AFFIRMATIVE DEFENSE**

23                                   (Lack Of Subject Matter Jurisdiction)

24           This Court lacks subject matter jurisdiction of each of the claims asserted in  
25 Plaintiff's FAC.

1                                   **SECOND AFFIRMATIVE DEFENSE**

2                                   (Failure To State A Claim)

3           The FAC fails to state facts sufficient to constitute a claim for relief against BBG  
4 Global.

5                                   **THIRD AFFIRMATIVE DEFENSE**

6                                   (Safe Harbor)

7           This action is barred by the safe harbor provision contained in *Cel-Tech*  
8 *Communications, Inc. v. Superior Court*, 20 Cal.4th 163 (1999), because the conduct  
9 complained of was legal in Germany, the sovereign nation in which it took place.

10  
11                                  **FOURTH AFFIRMATIVE DEFENSE**

12                                  (Dormant Commerce Clause)

13           This action is barred in its entirety by the Dormant Commerce Clause of the United  
14 States Constitution because it seeks to apply California law to conduct occurring wholly  
15 outside of California and of the United States.

16  
17                                  **FIFTH AFFIRMATIVE DEFENSE**

18                                  (International Comity)

19           This action is barred in its entirety by principles of international comity because it  
20 seeks to apply California law to conduct occurring in Hong Kong, a sovereign nation.

21  
22                                  **SIXTH AFFIRMATIVE DEFENSE**

23                                  (Choice Of Law)

24           This action is barred in its entirety by choice of law principles because California  
25 law cannot apply to this case, in which the complained of conduct took place in Hong  
26 Kong, and Plaintiffs have not stated a claim under either Hong Kong law.

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## 73

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1 Plaintiff's claims violate BBG Global's rights under the United States Constitution  
2 in that, among other things, the claim for violation of California Business & Professions  
3 Code Section 17200 is an unconstitutional violation of international comity as the statute  
4 applies to the facts alleged in the FAC.

5  
6 **ELEVENTH AFFIRMATIVE DEFENSE**

7 (Supremacy Clause Violation)

8 Plaintiffs seek to apply California law in a manner that violates the Supremacy  
9 Clause of the United States Constitution.

10  
11 **TWELFTH AFFIRMATIVE DEFENSE**

12 (Unconstitutional Extraterritorial Application of California Law)

13 Plaintiff seeks to apply California law extraterritorially in a manner that violates the  
14 United States Constitution.

15  
16 **OTHER AFFIRMATIVE DEFENSES**

17 BBG Global presently has insufficient knowledge or information upon which to  
18 form a belief as to whether it may have additional, as yet unstated, affirmative defenses.  
19 BBG Global reserves the right to assert additional affirmative defenses.

20  
21 Dated: October 13, 2011

22 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

23  
24 By s/ Fred S. Puglisi  
25 FRED S. PUGLISI

26 Attorneys for Defendant  
27 BBG GLOBAL, AG  
28

1 CERTIFICATE OF SERVICE

2 UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF CALIFORNIA

3 I am employed in the County of Los Angeles. I am over the age of eighteen  
4 years and not a party to the within entitled action; my business address is 650 Town Center  
Drive, 4<sup>th</sup> Floor, Costa Mesa, California 92626.

5 On September 16, 2011, I served the following document(s):

6 **DEFENDANT BBG GLOBAL AG'S ANSWER TO FIRST AMENDED**  
7 **COMPLAINT**

8 **Electronic Mail Notice List**

9 The following are those who are currently on the list to receive e-mail  
10 notices for this case.

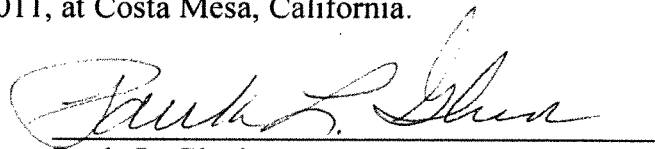
11 Stuart M. Eppsteiner, Esq. (SBN 098973)  
12 sme@eppsteiner.com  
13 Andrew J. Kubik, Esq. (SBN 246902)  
14 ajk@eppsteiner.com  
15 EPPSTEINER & FIORICA ATTORNEYS,  
16 LLP  
17 12555 High Bluff Dr., Suite 155  
San Diego, California 92130  
T: 858-350-1500  
F: 858-350-1501  
Counsel for Plaintiff and the Class

18 ☒ **BY ELECTRONIC MAIL:** I caused the above-entitled documents to be served  
19 through CM ECF addressed to all parties appearing on the CM ECF electronic  
20 service list for the above-entitled case. The file transmission was reported as  
completed and a copy of the CM ECF Filing Receipt will be maintained with the  
original documents in our office.

21 ☒ **FEDERAL:** I declare that I am employed in the office of a member of the bar of  
22 this Court at whose direction the service was made. I declare under penalty of  
perjury under the laws of the United States of America that the foregoing is true and  
correct.

23 I declare that I am employed in the office of a member of the bar of this  
24 Court at whose direction the service was made. I declare under penalty of perjury under  
the laws of the United States of America that the foregoing is true and correct.

25 Executed on October 13, 2011, at Costa Mesa, California.

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27   
28 Paula L. Gluck